Case 5:08-cv-03132-JF 306 ument 3 1006/30/2008

CIVIL COVER SHEET

S JS 44 (Rev. 12/07) (cand rev 1-16-08) The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.) **DEFENDANTS** AUTODESK, INC., a Delaware corporation TANEY ENGINEERING, INC., a Nevada corporation; and TANEY CUNNINGHAM EQUIPMENT, LLC, a Nevada limited liability company County of Residence of First Listed Defendant (b) County of Residence of First Listed Plaintiff Marin (IN U.S. PLAINTIFF CASES ONLY) (EXCEPT IN U.S. PLAINTIFF CASES) IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. Attorneys (If Known) (c) Attorney's (Firm Name, Address, and Telephone Number) Donahue Gallagher Woods LLP, 300 Lakeside Drive, Suite 1900, Oakland, California 94612-3570, (510) 451-0544 (see attachment) II. BASIS OF JURISDICTION (Place an "X" in One Box Only) III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff (For Diversity Cases Only) and One Box for Defendant) PTF DEF PTF DEF U.S. Government ederal Question Citizen of This State □ 1 Incorporated or Principal Place **4** Plaintiff (U.S. Government Not a Party of Business lu This State U.S. Government Diversity Citizen of Another State 2 Incorporated and Principal Place Defendant (Indicate Citizenship of Parties in Item III) of Business In Another State Citizen or Subject of a 3 Foreign Nation □ 6 6 Foreign Country IV. NATURE OF SUIT (Place an "X" in One Box Only) CONTRACT FORFEITURE/PENALTY BANKRUPTCY OTHER STATUTES PERSONAL INJURY 110 Insurance PERSONAL INJURY ☐610 Agriculture 422 Appeal 28 USC 158 ☐ 400 State Reapportionment 423 Withdrawal 120 Marine 620 Other Food & Drug 1410 Antitrust 310 Airplane 362 Personal Injury-130 Miller Act 315 Airplane Product Med. Malpractice 625 Drug Related Seizure 28 USC 157 7430 Banks and Banking 140 Negotiable Instrument of Property 21 USC 88 1450 Commerce Liability Personal Injury -150 Recovery of Overpayment 630 Liquor Laws 460 Deportation 320 Assault, Libel & Product Liability PROPERTY RIGHT & Enforcement of Judgment 7640 R.R. & Truck 7470 Racketeer Influenced and Slander 368 Asbestos Personal **■** 820 Copyrights 151 Medicare Act 650 Airline Regs. Corrupt Organizations 330 Federal Employers' Injury Product 830 Patent ☐ 480 Consumer Credit 152 Recovery of Defaulted 660 Occupational Liability Liability Student Loans Safety/Health 7 490 Cable/Sat TV 1340 Marine PERSONAL PROPERTY ☐690 Other (Excl. Veterans) ■ 810 Selective Service 7345 Marine Product 370 Other Fraud 153 Recovery of Overpayment 850 Securities/Commodities/ Liability 371 Truth in Lending LABOR SOCIAL SECURITY 350 Motor Vehicle of Veteran's Benefits Exchange 380 Other Personal 160 Stockholders' Suits 355 Motor Vehicle ☐ 710 Fair Labor Standards 361 HIA (1395ff) 875 Customer Challenge Property Damage 190 Other Contract 12 USC 3410 Product Liability 362 Black Lung (923) Act 385 Property Damage 195 Contract Product Liability 360 Other Personal Injury 720 Labor/Mgmt. Relations 3863 DIWC/DIWW (405(g)) 890 Other Statutory Actions Product Liability 196 Franchise 730 Labor/Mgmt.Reporting 864 SSID Title XVI 891 Agricultural Acts PRISONER & Disclosure Act 865 RSI (405(g)) 1892 Economic Stabilization Act REAL PROPERTY CIVIL RIGHTS PETITIONS 740 Railway Labor Act 893 Environmenta.
894 Energy Allocation Act 790 Other Labor Litigation 210 Land Condemnation 441 Voting 510 Motions to Vacate 395 Freedom of Information 791 Empl. Ret. Inc. 220 Foreclosure 442 Employment Sentence FEDERAL TAX SUITS Act 443 Housing/ Security Act Habeas Corpus: 230 Rent Lease & Ejectment ☐ 900Appeal of Fee 870 Taxes (U.S. Plaintiff 240 Torts to Land Accommodations 530 General Determination 245 Tort Product Liability 535 Death Penalty 444 Welfare Under Equal Access 1445 Amer. w/Disabilities 3871 IRS—Third Party 1540 Mandamus & Other 290 All Other Real Property IMMIGRATION to Justice 26 USC 7609 7 550 Civil Rights Employment ☐ 462 Naturalization Application 950 Constitutionality of 6 Amer. w/Disabilities 1555 Prison Condition 1463 Habeas Corpus State Statutes Other Alien Detainee 3440 Other Civil Rights 465 Other Immigration Actions ORIGIN Appeal to District ace an "X" in One Box Only) Transferred from ■ 1 Original 2 Removed from Remanded from 4 Reinstated or 5 another district ☐ 6 Multidistrict ☐ 7 Judge from \square 3 Magistrate Proceeding State Court Appellate Court Reopened (specify) Litigation Judgment Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 17 U.S.C. Sec. 501 et seq VI. CAUSE OF ACTION Brief description of cause: Plaintiff is bringing a copyright infringement claim against Defendants. **DEMAND \$ SEE ATTACHED** VII. REQUESTED IN ☐ CHECK IF THIS IS A CLASS ACTION CHECK YES only if demanded in complaint: JURY DEMAND: **COMPLAINT:** UNDER F.R.C.P. 23 PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE VIII. RELATED CASE(S) "NOTICE OF RELATED CASE." IF ANY IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) SAN FRANCISCO/OAKLAND SAN JOSE ACE AND "X" IN ONE BOX ONLY) SIGNATURI

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

- III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity.

U.S. Civil Statute: 47 USC 553

Brief Description: <u>Unauthorized reception of cable service</u>

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

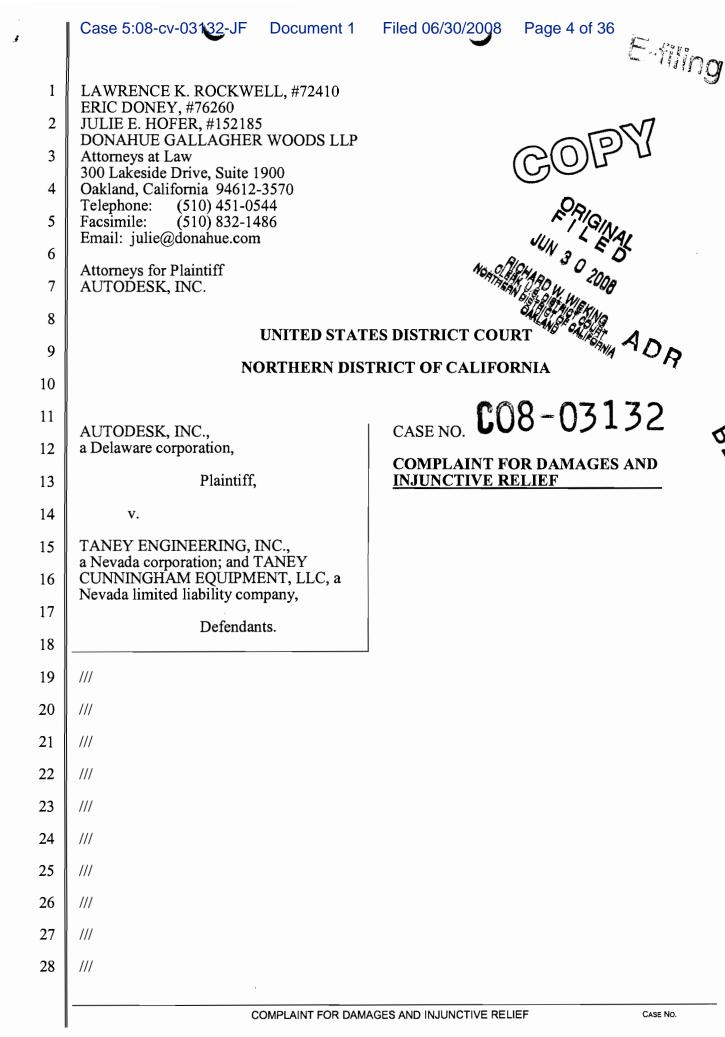
Attachment to Civil Case Cover Sheet Autodesk, Inc. v. Taney Engineering, Inc. and Taney Cunningham Equipment, LLC

1c. ATTORNEYS

Lawrence K. Rockwell, #72410 Eric W. Doney, #76260 Julie E. Hofer, #152185

VII. REQUESTED IN COMPLAINT

Actual or Statutory Damages Preliminary Injunction Permanent Injunction Order to Destroy Infringing Copies Attorney's Fees and Costs



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Engineering, Inc. ("Taney") and defendant Taney Cunningham Equipment, LLC ("TCE"), states and alleges as follows:

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JURISDICTION AND VENUE

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Parties

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1. Autodesk is a Delaware corporation with its principal place of business in San Rafael, California.

Plaintiff Autodesk, Inc. ("Autodesk"), for its complaint against defendant Taney

On information and belief, Autodesk alleges that Taney and TCE (collectively, "Defendants") are a Nevada corporation and a Nevada limited liability company, respectively, with their principal places of business in Henderson, Nevada.

Jurisdiction

- 3. This case is a civil action arising under the copyright laws of the United States, 17 U.S.C. §§ 101, et seq. This Court has subject matter jurisdiction over the claim relating to copyright infringement pursuant to 17 U.S.C. § 501, 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).
- 4. Autodesk is informed and believes and thereon alleges that Defendants knew, or reasonably should have known, that Autodesk is located in California, and that Defendants directed and aimed their unauthorized activity at Autodesk located in this Northern District of California. Autodesk is informed and believes and thereon alleges that Defendants knew, or reasonably should have known, that Autodesk would likely suffer the brunt of the harm caused by Defendants in California at Autodesk's principal place of business in the Northern District of California. The acts of Defendants complained of herein caused Autodesk to bear the brunt of the harm in California at its principal place of business in San Rafael, California within this District.

Venue

5. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400(a).

Intradistrict Assignment

6. Because this matter is an Intellectual Property Action, there is no basis for assignment to a particular location or division of the Court pursuant to Civil L.R. 3-2(c).

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GENERAL ALLEGATIONS

The Business of Autodesk

- 7. Autodesk is in the business of developing and marketing computer software programs recorded on various media, including among others optical disks, for use on personal computers. Autodesk packages and distributes its software together with associated user instruction or reference manuals, end-user license agreements and other documentation.
- 8. Autodesk has made and continues to make a substantial investment of time, effort, and expense in the design, development, testing, publishing, and marketing of its software products.
- Nine (9) of Autodesk's software products are: AutoCAD LT® 2004 software; 9. AutoCAD LT® 2005 software; AutoCAD LT® 2006 software; AutoCAD LT® 2007 software; Autodesk® Civil Design 2004 software; Autodesk® Civil Design 2005 software; Autodesk® Land Desktop 2004 software; Autodesk[®] Land Desktop 2005 software; and Autodesk[®] Civil 3D[®] 2007 software. These products are referred to collectively hereinafter as the "Autodesk Products."
- 10. The Autodesk Products, their reference manuals and the other documentation packaged and distributed with the Autodesk Products contain a large amount of material wholly original with Autodesk and are copyrightable subject matter under the laws of the United States.
- At all times herein relevant, Autodesk complied in all respects with the U.S. 11. Copyright Act, 17 U.S.C. §§ 101, et seq., (the "Copyright Act") and secured the exclusive rights and privileges in the copyrights in the Autodesk Products and their reference manuals. Each of the aforementioned works is an original work, copyrightable under the Copyright Act, and has been timely registered in full compliance with the Copyright Act. Autodesk has received Certificates of Registration from the Register of Copyrights for the Autodesk Products and their reference manuals, copies of which are attached hereto as Exhibits A through I.
- 12. Since the dates of their respective registrations, the Autodesk Products and their reference manuals, as well as other documentation referred to above, have been published by Autodesk or under its authority. All copies of said-works made by Autodesk or under its authority have been published in strict conformity with the provisions of the Copyright Act,

including without limitation 17 U.S.C. §§ 401-412. Autodesk has thereby fully maintained the validity of the copyrights in these works.

- 13. Since the creation of the Autodesk Products, their reference manuals and other accompanying documentation, Autodesk has been and still is the sole proprietor of all rights, title and interest in the copyrights in the Autodesk Products and the accompanying documentation, including the reference manuals, and the Certificates of Registration corresponding therewith.
- 14. Other than limited reproduction rights afforded by valid license agreements between the parties, if any, Autodesk has not authorized Defendants to copy, reproduce, distribute or prepare derivative works based upon the Autodesk Products, the reference manuals and/or other accompanying documentation.

The Business of Defendants

15. Autodesk is informed and believes and thereon alleges that: (a) Taney is in the business of providing engineering services, for which purpose it uses and has used certain of the Autodesk Products; (b) TCE is in the business of leasing to Taney the computers that Taney uses in its business; (c) Defendants share facilities and have common management; (d) to conduct their businesses and to use certain of the Autodesk Products, Defendants have engaged in the unauthorized reproduction of those Autodesk Products; and (e) Defendants have willfully and intentionally engaged in the conduct complained of herein.

FIRST CLAIM FOR RELIEF

(Copyright Infringement Against All Defendants)

- 16. Autodesk re-alleges and incorporates herein by this reference each of the allegations contained in Paragraphs 1 through 15 as though fully set forth.
- 17. Defendants' acts constitute infringement of Autodesk's copyrights in certain of the Autodesk Products in violation of the Copyright Act.
- 18. Autodesk is informed and believes and thereon alleges that Defendants' unauthorized reproduction of certain of the Autodesk Products was deliberate, willful, malicious, oppressive and without regard to Autodesk's proprietary rights.
 - 19. Defendants' copyright infringement has caused, and will continue to cause,

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27 28 Autodesk to suffer substantial injuries, loss and damage to its proprietary and exclusive rights to. and copyrights in, the Autodesk Products and, further, has damaged Autodesk's business reputation and goodwill, diverted its trade and caused a loss of profits, all in an amount not yet ascertained.

20. Defendants' copyright infringement, and the threat of continuing infringement by Defendants, have caused, and will continue to cause, Autodesk to suffer repeated and irreparable injury. It would be difficult to ascertain the amount of money damages that would afford Autodesk adequate relief at law for Defendants' continuing acts, and a multiplicity of judicial proceedings would be required. Autodesk's remedy at law is not adequate to compensate it for the injuries already inflicted and further threatened by Defendants. Therefore, Defendants should be restrained and enjoined pursuant to the Copyright Act.

PRAYER FOR RELIEF

WHEREFORE, Autodesk prays as follows:

- 1. That, upon motion, the Court issue a preliminary injunction enjoining and restraining Defendants and their respective agents, servants, employees, successors and assigns, and all other persons acting in concert or conspiracy with Defendants or affiliated with Defendants, from:
- Copying, reproducing, distributing or using any unauthorized copies of the (a) Autodesk Products;
 - (b) Otherwise infringing any of Autodesk's copyrights; and
- (c) Destroying any copies of software products, materials or documents, including without limitation electronic files or business records, that relate or pertain to the copying, reproduction, distribution and/or use of Autodesk's software products and/or the infringement of Autodesk's copyrights.
- 2. That the Court issue a permanent injunction making permanent the orders requested in paragraphs 1(a) and (b) of this Prayer for Relief;
- 3.——That Autodesk be awarded for Defendants' copyright infringement either: (a) actual damages in an amount to be determined at trial, together with the profits derived from

Defendants' unlawful infringement of Autodesk's copyrighted Autodesk Products; or (b) statutory damages for each act of infringement in an amount provided by law, as set forth in 17 U.S.C. § 504, at Autodesk's election before the entry of a final judgment;

- 4. That the Court issue an order requiring Defendants to file with this Court and serve on Autodesk within thirty (30) days after service of an injunction a report, in writing, under oath, setting forth in detail the manner and form in which Defendants have complied with the injunction;
- 5. That the Court issue an order upon judgment requiring Defendants to destroy all infringing copies of the Autodesk Products;
 - 6. That the Court award Autodesk its attorney's fees pursuant to 17 U.S.C. § 505;
 - 7. That the Court award Autodesk its costs of suit incurred herein; and
 - 8. That the Court grant such other and further relief as it deems just and proper.

Dated: June 30, 2008

DONAHUE GALLAGHER WOODS LLP

By: (Hofe

Attorneys for Plaintiff AUTODESK, INC.

EXHIBIT A



OFFICIAL SEAL

This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

REGISTER OF COPYRIGHTS United States of America

FORM TX For a Literary Work
UNITED STATES COPYRIGHT OFFICE

TX 5-673-280

EFFECTIVE DAYE OF REGISTRATION

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EXHIBIT B



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Geters

Register of Copyrights, United States of America

FORM TX

UNITED STATES COPYRIGHT OFFICE

TX 5-958-384



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Mry 25, 2004

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Case 5:08-cv-031\$2-JF Document 1 Filed 06/30/2008 Page 16 of 36

EXHIBIT C



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Register of Copyrights, United States of America

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EXHIBIT D



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

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Register of Copyrights, United States of America

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Marybeth Peters

United States of America

FORM TX

NITED STATES COPYRIGHT OFFICE

TX 5-758-749

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FORM TX

For a Literary Work

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TX 6-035-568

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17 U.S.C. § 506(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

Case 5:08-cv-031 2-JF Document 1 Filed 06/30/2008 Page 31 of 36

EXHIBIT H



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